

## IN THE UNITED STATE PATENT-AND TRADEMARK OFFICE

## Application of

Applicants : Borisenko, et al.  
 Title : HIGH CAPACITANCE ENERGY STORAGE DEVICE  
 Serial No. : 09/807,485  
 Filed : April 12, 2001  
 Docket No. : GOW 0082 PA  
 Examiner : Boris Milef

CERTIFICATE OF MAILING	
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on October 23, 2001.	
<i>Julie G. Cope</i>	Reg. No. 98,624
Julie G. Cope - Attorney	

Commissioner for Patents  
 Washington, D.C. 20231

Sir:

RECEIVED  
 18 JAN 2002  
 Legal Staff  
 International Division

REQUEST FOR RECONSIDERATION

This request is in response to the decision mailed on September 13, 2001. The applicants filed a transmittal letter on 12 April 2001 for entry into the national stage in the United States under 35 USC §371 which was accompanied by, *inter alia*, an unsigned declaration. On 14 May 2001, notification of Missing Requirements and Notification of Defective Oath or Declaration was mailed indicating that an oath or declaration in compliance with 37 CFR 1.497 was required. On 16 July 2001, applicant filed a declaration signed by co-inventor Dmitry Borisenko, a document in Russian titled "Declaration by an Administrator or Executor Attached to Patent Application with an accompanying English translation, a "Small Entity Claim and Request for Refund" with payment of \$65.00 for surcharge fees.

In the decision, the Advisor stated that the declaration which is signed by Dmitry Borisenko as co-inventor and listed the other co-inventor, Nikolay Borisenko as deceased complied with the requirements of 37 CFR 1.497. The declaration clearly states that Dmitry Borisenko and Nikolay Borisenko are the original, first, and joint inventors of the subject matter which is claimed and for which a patent is sought. See Declaration, pg. 1. The declaration also lists for convenience purposes, Dmitry Borisenko as the first inventor and Nikolay Borisenko as the second inventor. See Declaration, pg. 2.

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Another document entitled "Declaration by an Administrator or Executor Attached to Patent Application" was mailed with the declaration. The Advisor stated that the document complied with the requirements of 37 CFR 1.497 (b)(2), however, the document did not comply with 37 CFR 1.497 (a)(4). 37 CFR 1.497(a)(4) states:

"when an applicant of an international application desires to enter the national stage under 35 USC §371 pursuant to §§ 1.494 or 1.495, he or she must file an oath or declaration that:

(4) states that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought."

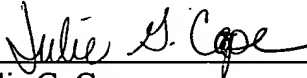
The statute is speaking of the original declaration which accompanies the application. This declaration was found in compliance with 1.497. The declaration clearly states that Nikolay Borisenko and Dmitry Borisenko are the original, first and joint inventors of the present invention. The statute is not referring to the accompanying document which is simply a mechanism for explaining why Nikolay Borisenko could not sign the original declaration.

Nikolay Borisenko is deceased, therefore, Dmitry Borisenko signed the declaration for Nikolay Borisenko through a "Declaration by an Administrator or Executor Attached to Patent Application." This document is presented to identify Dmitry Borisenko as the Administrator or Executor for Nikolay Borisenko. Nikolay Borisenko is fully identified in the document by name, address, citizenship, and relationship to Dmitry Borisenko. In order to avoid confusion, the deceased is further identified in conjunction with the declaration that is in compliance with 37 CFR 1.497. As stated above, in the declaration Nikolay Borisenko is listed as the second inventor for signature purposes. Thus, Nikolay Borisenko is identified as the second inventor for the purposes of the document accompanying the declaration. Identifying Nikolay Borisenko as the second inventor is not to be interpreted as meaning that another person invented the present invention before Nikolay Borisenko and his co-inventor Dmitry Borisenko. It is only for purposes of coordinating the document with the declaration that was submitted and found in compliance with 37 CFR 1.497. The declaration and its accompanying document are meant to

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be read together. When read together, it is apparent that Nikolay Borisenko and Dmitry Borisenko are the original, first and joint inventors. Thus, the document accompanying the declaration is in compliance with 37 CFR 1.497(a)(4).

Respectfully submitted,  
KILLWORTH, GOTTMAN, HAGAN  
& SCHAEFF, L.L.P.

  
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